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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Elena Noguero,

Plaintiff,

vs.

Wells Fargo Bank, N.A;
TransUnion LLC; Experian
Information Solutions, Inc.; and
Equifax Inc.

Defendants.

No.

**COMPLAINT FOR VIOLATION OF
THE FAIR CREDIT REPORTING ACT,
15 U.S.C. § 1681 et seq.**

JURY DEMAND

Honorable _____

NOW COMES Plaintiff Elena Noguero (“Ms. Noguero”), by counsel, for her
Complaint against Wells Fargo Bank, N.A. (“Wells Fargo”), TransUnion, LLC
 (“TransUnion”), Experian Information Solutions, Inc. (“Experian”) and Equifax Inc.
 (“Equifax”) (collectively, “Defendants”) alleging as follows:

JURISDICTION

1
2 1. Ms. Noguero files this action for damages arising from violations of the
3 Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681 et seq.
4

5 2. This Court has subject matter jurisdiction over Ms. Noguero’s federal
6 claims pursuant to 28 U.S.C. §§1331 and 1343 and 15 U.S.C. § 1681(p).
7

8 3. Venue is proper in this Court pursuant to 28 U.S.C. §1391(b), inasmuch as
9 the unconstitutional, unlawful, and wrongful conduct alleged was committed in the
10 District of Arizona, one or more of the Defendants reside in this district, and Mr.
11 Brueggemeyer resides in this district.
12

PARTIES

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15 4. Ms. Noguero incorporates paragraphs 1-3 as though fully set forth herein.

16 5. Ms. Noguero is an individual who resides in Maricopa County, Arizona
17

18 6. During all time pertinent to this Complaint, Defendant Wells Fargo Bank
19 was authorized to conduct business in the State of Arizona and conducted business in
20 Arizona on a routine and systematic basis. Defendant Wells Fargo Bank is a “furnisher
21 of information” under 15 U.S.C. § 1681s-2(a) & (b).
22

23 7. Defendant TransUnion is a “consumer reporting agency,” as defined by 15
24 U.S.C. §1681a(f).
25

26 8. Defendant, Experian is a “consumer reporting agency,” as defined by 15
27 U.S.C. §1681a(f).
28
29
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1 15. Ms. Noguero signed the Agreement and executed the accompanying
2 Warranty Deed conveying title to Wells Fargo. Ex. 1, Warranty Deed.¹ Wells Fargo
3 subsequently took possession and title of the property without foreclosure proceedings.
4 The Notice of Sale was cancelled. Ex. 2, Notice of Cancellation of Sale.²

6 16. Thereafter, Ms. Noguero learned Wells Fargo reported her account to three
7 major credit bureaus, Defendants Equifax, TransUnion, and Experian, as “Foreclosed.”

9 17. In November 2013, Ms. Noguero disputed Wells Fargo’s inaccurate credit
10 reporting with Defendants Equifax, TransUnion, and Experian.

12 18. Ms. Noguero advised these Defendants (many times) that her residence
13 was surrendered by a Deed in Lieu Agreement, not through foreclosure. This is a matter
14 of public record. *See* Maricopa County Recorder’s Office (viewable on the internet).

16 19. Nonetheless, Defendants refused to accurately report the account, even
17 though the information is **publicly** available and available through Ms. Noguero and
18 Wells Fargo. Defendants repeated refusal to perform a reasonable (basic) investigation
19 as required by the FCRA, is deliberate, willful, intentional, reckless, and negligent.
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25 ¹ Exhibit 1 is a matter of public record.

26 *See* <http://recorder.maricopa.gov/recdocdata/GetRecDataDetail.aspx?rec=20130009218>
27 (as it existed September 2, 2015).

28 ² Exhibit 1 is a matter of public record.

29
30 *See* <http://recorder.maricopa.gov/recdocdata/GetRecDataDetail.aspx?rec=20130171161>
(as it existed September 2, 2015).

1 20. Consequently, Ms. Noguero suffers emotional distress and consequential
2 damages, including credit impairment, and the inability to obtain financing for another
3 residence. As a result of Defendants' conduct, Ms. Noguero's has inexplicably suffered a
4 decreased credit score as a result of the negative entry appearing on Ms. Noguero's
5 credit report, preventing her from being able to obtain a mortgage.
6

7
8 **COUNT ONE**

9 **Wells Fargo; Equifax; TransUnion and Experian**

10 -Violation of Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.-

11 21. Ms. Noguero incorporates paragraphs 1-20 as though fully set forth herein.

12 22. Wells Fargo is a furnisher of information under the FCRA. Upon receipt
13 of notice from a credit reporting agency that a consumer disputes information being
14 reported by a furnisher of information, the FCRA requires furnishers to conduct an
15 investigation with respect to the disputed information, to review all relevant information,
16 to report the results of the investigation to the credit reporting agency, and, if the
17 investigation reveals that the information is incomplete or inaccurate, to report those
18 results to all other credit reporting agencies to which the furnisher has provided the
19 inaccurate information.
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23 23. Ms. Noguero notified Defendants Experian, TransUnion, and Equifax that
24 their reporting of the Wells Fargo account was inaccurate. Ms. Noguero provided copies
25 of relevant documents (indisputable evidence). Nonetheless, all Defendants refused to
26 take the corrective measures required by the FCRA.
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1 24. Wells Fargo violated sections 15 U.S.C. §§ 1681n and 1681o of the FCRA
2 by engaging in willful and negligent noncompliance of 15 U.S.C. § 1681s-2(a), (b), by
3 the following conduct:
4

- 5 (a) Refusal to conduct an investigation of Ms. Noguero's dispute when the
6 information is readily available;
7
- 8 (b) Refusal to review all relevant information concerning Ms. Noguero's
9 account when this information is readily available; alternatively, failing
10 to report the results of its review/investigation to the consumer reporting
11 agencies;
12
- 13 (c) Intentional failure to report the knowingly inaccurate status of Ms.
14 Noguero's account information to the credit reporting agencies;
15
- 16 (d) Intentional failure to properly participate, investigate and comply with
17 reinvestigations conducted the credit reporting agencies regarding Ms.
18 Noguero's dispute; and
19
- 20 (e) Continuing to furnish and disseminate inaccurate and derogatory credit,
21 account, and other information regarding Ms. Noguero to the credit
22 reporting agencies despite actual knowledge of these inaccuracies.
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25 25. All Defendants' conduct was a direct and proximate cause, as well as a
26 substantial factor, in causing damages to Ms. Noguero. Consequently, Ms. Noguero
27 suffers emotional distress and consequential damages, including credit impairment, and
28 the inability to obtain financing for another residence. As a result of Defendants'
29
30

1 conduct, Ms. Noguero's suffers negative consequences to her credit score preventing her
2 from securing financing for another residence. Defendants are further liable for statutory
3 damages, punitive damages, attorneys' fees, costs, as well as other such relief permitted
4 by 15 U.S.C. § 1681n.
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6
7 **JURY DEMAND**

8 Ms. Noguero hereby requests a trial by jury in this action.

9 **REQUEST FOR RELIEF**

10 WHEREFORE, Ms. Noguero respectfully seeks the following relief:

- 11 A. Actual damages, statutory damages, and punitive damages pursuant
12 to 15 U.S.C. §§ 1681n and 1681o;
13
14 B. Injunctive and/or declaratory relief as necessary;
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16 C. Reasonable attorney's fees and costs pursuant to 15 U.S.C. §§ 1681n
17 and 1681o; and
18
19 D. Taxable expenses, and pre-judgment and post judgment interest as
20 may be allowed by law; and
21
22 E. Such other and further relief as the Court may deem just, reasonable,
23 and proper.

24 **RESPECTFULLY SUBMITTED** this 2nd day of September 2015.

25
26 **HADOUS|CO. PLLC**

27 By: /s/Nemer N. Hadous

28 Nemer N. Hadous, AZ #027529

29 Attorneys for Plaintiff Elena Noguero
30

CERTIFICATE OF SERVICE

I hereby certify that on September 2, 2015, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which will send notice of such filing to all attorneys of record in this matter. Since none of the attorneys of record are non-ECF participants, hard copies of the foregoing have not been provided via personal delivery or by postal mail.

RESPECTFULLY SUBMITTED this 2nd day of September 2015.

HADOUS|CO. PLLC

By: /s/Nemer N. Hadous

Nemer N. Hadous, AZ #027529

Attorneys for Plaintiff Elena Noguero